

# Consultation response: Centre for Data Ethics and Innovation

## Submitted to

Department for Digital, Culture,  
Media & Sport

## Submitted by

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The creation of a new Centre for Data Ethics and Innovation ('the Centre') is a welcome recognition of the increasing importance of data and artificial intelligence (AI) throughout all aspects of society. Given the burgeoning interest in AI, the Centre has the potential to offer a key leadership role.

## Summary

- The new Centre for Data Ethics and Innovation is a welcome development. It potentially offers a key leadership role in optimising the ethical development of AI beneficial to society
- We encourage the Centre to give due weight to non-novel 'standard' challenges associated with the use of data and AI (such as the minimisation of bias, and understanding wider societal impacts such as implications for workforce planning)<sup>1</sup>
- In order to see the Centre realise its ambitious potential, we are keen to see it adequately resourced

## Q1: Do you agree with the proposed role and objectives for the Centre?

The PHG Foundation is supportive of the creation of a Centre for Data Ethics and Innovation. The role and objectives seem appropriately broad, to enable it to learn from current best practice, but also to develop a leadership role amid the plethora of stakeholders, developers and commentators who are interested in AI. We also endorse the model through which the Centre relies on existing regulators for enforcement rather than having any independent regulatory or enforcement power.

Given the Centre's ambitious programme, it will need to be sufficiently resourced both in terms of funding and expertise

## **Q2: How best can the Centre work with other institutions to ensure safe and ethical innovation in the use of data and AI?**

The PHG Foundation supports the Centre in its desire to work with other institutions. The Centre has ambitious plans for collaboration across sectors, across bodies, and across devolved jurisdictions. This will require the Centre to be well resourced, and likely to prioritise across competing objectives. This is particularly the case if the Centre looks beyond the narrow uses of data and AI to consider data more generally.

In this regard, the landscape for comment on AI is crowded. To mention but a few key bodies, the Ada Lovelace Institute, Alan Turing Institute, Oxford Internet Institute and the Leverhulme Centre for the Future of Intelligence all work on AI, particularly on the more novel or futuristic aspects of AI (such as the development of artificial general intelligence in which AI robots may develop broad cognitive capacity to replace human activity). In addition to these institutions, the Centre will also sit alongside its two other governmental bodies: the AI Council and Office for AI.

Because of this crowded space, the Centre has the potential to play a key leadership role in developing best practice and identifying potential regulatory gaps.

As a think-tank with extensive expertise in the healthcare sector, the PHG Foundation is willing and able to contribute to the Centre's work, having ongoing projects and expertise in the following:

- Which AI algorithms are in development for the healthcare sector (collaboration with NHS England)
- Ongoing projects on the [regulation of algorithms for healthcare \(GDPR, medical device law, intellectual property, and liability\)](#)
- Ongoing collaborations with the Centre for Law Medicine and Life Science, University of Cambridge on the intellectual property and liability aspects of AI
- Ongoing work advocating for optimal data sharing to support clinical genetic and genomic services
- Ongoing projects on data ownership, the value of data for healthcare, [citizen generated data](#), and challenges associated with data silos

## **Q3: What activities should the Centre undertake?**

Broadly, the PHG Foundation supports the activities the Centre seeks to undertake (3.4); and the need for careful scoping and prioritisation (3.10).

Given the Centre's ambitious programme, it will need to be sufficiently resourced both in terms of funding and expertise.

Focusing on theoretical issues unique to AI may come at the cost of ignoring the existing problems software commonly faces

**Q4: Do you agree with the proposed areas and themes for the Centre to focus on?**

The PHG Foundation considers that the proposed themes in point 3.5 are appropriate for the Centre to undertake.

We also agree that the proposed areas listed in point 3.6 of the Consultation are well thought out and an accurate representation of the challenges AI might pose.

**Q5: What priority projects should the Centre aim to deliver in its first two years, according to the criteria set out above?**

Our view is that the most pressing issues are often standard problems that are not unique to AI, but which AI might exacerbate (as point 3.5 seems to suggest). Given this point, we urge the Centre to actively pursue some of these non-novel problems which could otherwise be overlooked in favour of novel (but less imminent) issues such as whether autonomous systems might count as 'novel' agents in law<sup>2</sup>. Focusing on theoretical issues unique to AI may come at the cost of ignoring the existing problems software commonly faces.<sup>3</sup>

The PHG Foundation is actively exploring some of the themes raised in section 3.5, including the challenges associated with software and liability. For example, the position of software under product liability law is still uncertain and leaves consumers in real doubt as to whether they will find compensation for their injuries or not. The introduction of risk prediction tools and other such software for diagnosis also calls into question the place of the clinician in clinical negligence - should clinicians remain liable for the consequences of misdiagnosis if they acted with due care when interpreting a faulty algorithm's recommendation?

We also have a keen interest in how data (including genomic data) can be optimally used to support safer, personalised healthcare. Indeed we are actively working on regulatory, ethical and scientific/technical aspects of more focused forms of AI (sometimes called narrow AI) in areas such as pathology and imaging. Finally, we also have ongoing projects on the use of data in healthcare, health research, and how these areas might be affected by the GDPR and its various requirements, including transparency.

**Q6: Do you agree the Centre should be placed on a statutory footing? What statutory powers does the Centre need?**

The PHG Foundation agrees that the Centre should be placed on a statutory footing.

**Q7: In what ways can the Centre most effectively engage stakeholders, experts and the public?**

No response provided.

### Q8: How should the Centre deliver its recommendation to government?

No response provided.

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1. For example, see House of Lords. [AI in the UK: ready, willing and able?](#) 2018.
  2. Lawrence, David R. Brazier, Margaret. [Legally Human? 'Novel Beings' and English Law.](#) Medical Law Review 26(2), 2018.
  3. Ordish, Johan. [AI for health: Is there a regulatory gap?](#) Digital Health Legal. June, 2018.

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PHG Foundation is a health policy think tank with a special focus on how genomics and other emerging health technologies can provide more effective, personalised healthcare